

Message Text

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SUBJECT: NATO CONSULTATIONS ON MEASURES TO COMBAT INTERNATIONAL TERRORISM

REF: (A) STATE 46941

(B) NATO 1441

(C) STATE 214709 (1972)

1. THIS MESSAGE CONTAINS PAPER FOR CIRCULATION TO NATO MEMBERS AS BACKGROUND FOR APRIL 4 CONSULTATIONS. LIST OF EXPERTS USG PLANS TO SEND AS WELL AS PROPOSED SCENARIO BEING SENT SEPTEL.

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2. WE CONSIDER AS BASIC BACKGROUND DOCUMENTATION PAPER CIRCULATED FOR DECEMBER CONSULTATIONS, CONTAINED REF (C)

AND AS ANNEX II TO C- M(72)90.

3- MATERIAL SENT REF (A) IS ADEQUATE BACKGROUND DOCUMENTATION FOR FIRST ITEM ON AGENDA. REF (B), PARA 1, NOTES THAT YOU HAVE ALREADY CIRCULATED THIS MATERIAL AS AIDE MEMOIRE.

4. FOLLOWING MATERIAL IS PROVIDED FOR CIRCULATION AND RELATED TO SECOND POINT ON AGENDA CONTAINED PARA 1 OF REF (B).

5. BEGIN TEXT:

STATUS OF WORK ON CONVENTIONS RELATING TO INTERNATIONAL TERRORISM

THERE ARE THREE AREAS IN WHICH WORK ON INTERNATIONAL CONVENTIONS IS IN PROGRESS. THE FIRST CONCERNS THE SECURITY OF INTERNATIONAL CIVIL AVIATION. THIS WORK IS UNDERWAY IN THE ICAO FORUM. THE SECOND AREA INVOLVES PROTECTION OF DIPLOMATS. THE 1972 SESSION OF THE UN GENERAL ASSEMBLY DECIDED IN RESOLUTION 2926(XXVII) THAT AT ITS 1973 SESSION THE ASSEMBLY WOULD UNDERTAKE THE FINAL ELABORATION OF AN INTERNATIONAL CONVENTION ON THE PROTECTION OF DIPLOMATS BASED ON ARTICLES DRAFTED BY THE INTERNATIONAL LAW COMMISSION. THE THIRD AREA CONCERNS THE POSSIBLE ELABORATION OF A CONVENTION ON THE PREVENTION OF THE SPREAD OF TERRORISM. UN GENERAL ASSEMBLY RESOLUTION 3034 (XXVII) ESTABLISHED AN AD HOC COMMITTEE SCHEDULED TO MEET THIS SUMMER TO DISCUSS BOTH THE CAUSES OF TERRORISM AND THE MEASURES THAT MIGHT BE TAKEN TO PREVENT IT. BECAUSE THIS TOPIC IS SO HIGHLY POLITICAL, IT MAY BE MORE REALISTIC TO HOPE FOR REAL PROGRESS ON THE ITEM CONCERNING PROTECTION OF DIPLOMATS.

THE FOLLOWING SUPPLEMENTS AND UPDATES SECTIONS 1-3 OF THE PAPER CIRCULATED BY THE UNITED STATES ON NOVEMBER 29, 1972, WHICH IS CONTAINED IN ANNEX II TO NATO DOCUMENT C- M(72)90.
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1. AVIATION SECURITY

AT A MEETING IN EARLY MARCH OF THE ICAO COUNCIL, IT WAS DECIDED TO HOLD AN EXTRAORDINARY ICAO ASSEMBLY AS WELL AS A DIPLOMATIC CONFERENCE IN ROME, AUGUST 28- SEPTEMBER 21, 1973, TO CONSIDER FOUR PROPOSALS FOR NEW LEGAL PROVISIONS ON AVIATION SECURITY. THE CONFERENCE IS SCHEDULED TO CONSIDER TWO PROPOSALS: A NORDIC PROPOSAL FOR A NEW INDEPENDENT CONVENTION THAT WOULD PROVIDE A PROCEDURE TO MAKE RECOMMENDATIONS RELATING TO THE EF-

FECTIVE IMPLEMENTATION OF THE BASIC RULES CONTAINED IN THE TOKYO, HAGUE AND MONTREAL CONVENTIONS, AND A USSR PROPOSAL FOR AN OPTIONAL PROTOCOL TO THE HAGUE CONVENTION, WHICH WOULD PROVIDE FOR MANDATORY EXTRADITION OF ALLEGED OFFENDERS AND ELIMINATE THE ALTERNATIVE OF PROSECUTION. THE EXTRAORDINARY ASSEMBLY, WHICH WILL MEET ON ALTERNATING DAYS, WILL CONSIDER TWO PROPOSALS FOR AMENDMENTS TO THE CHICAGO CONVENTION: A FRENCH PROPOSAL THAT WOULD INCORPORATE THE OBLIGATIONS OF THE HAGUE AND TOKYO CONVEN-

TIONS INTO THE CHICAGO CONVENTION AND WOULD PROVIDE FOR EXPULSION FROM ICAO AS A SANCTION FOR FAILURE TO RATIFY THE AMENDMENT WITHIN A CERTAIN PERIOD OF TIME AFTER IT CAME INTO FORCE, AND A UK- SWISS PROPOSAL WHICH WOULD INCORPORATE INTO THE CHICAGO CONVENTION THE OBLIGATIONS OF THE HAGUE, MONTREAL AND TOKYO CONVENTIONS. THIS PROPOSAL WOULD NOT CALL FOR THE EXPULSION FROM ICAO OF MEMBER STATES FAILING TO RATIFY, BUT WOULD PROVIDE FOR CONTRACTING STATES TO DENY THE USE OF THEIR AIR SPACE TO AIRLINES OF A CONTRACTING STATE ACTING CONTRARY TO THE AMENDMENT. EXPERTS OF INTERESTED STATES WILL BE CONSULTING WITH ONE ANOTHER OUTSIDE OF THE NATO CONTEXT PRIOR TO THE ROME MEETINGS.

2. PROTECTION OF DIPLOMATS

TO DATE, ONLY NICARAGUA HAS RATIFIED THE 1971 OAS CONVENTION ON TERRORISM, WHICH REQUIRES PARTIES TO EXTRADITE OR PROSECUTE PERSONS ACCUSED OF KIDNAPPING, MURDER AND OTHER ASSAULTS AGAINST PERSONS TO WHOM THE STATE HAS A DUTY TO GIVE SPECIAL PROTECTION UNDER INTER-UNCLASSIFIED

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NATIONAL LAW. THIS CONVENTION IS REFERRED TO IN SECTION 2 OF ANNEX II TO C- M(72)90.

THE DRAFT ARTICLES SUBMITTED BY THE INTERNATIONAL LAW COMMISSION TO THE GENERAL ASSEMBLY IN 1972 (CONTAINED IN THE 1972 ILC REPORT, UN DOCUMENT A/8710) WOULD SIMILARLY REQUIRE EXTRADITION OR SUBMISSION FOR PROSECUTION OF INDIVIDUALS ACCUSED OF COMMITTING CERTAIN OFFENSES AGAINST DIPLOMATS OR OTHER OFFICIALS OF FOREIGN GOVERNMENTS OR INTERNATIONAL ORGANIZATIONS. THE UNITED NATIONS GENERAL ASSEMBLY IN ITS RESOLUTION 2926(XXVII) OF NOVEMBER 28, 1972 INVITED MEMBER STATES TO SUBMIT AS SOON AS POSSIBLE WRITTEN COMMENTS AND OBSERVATIONS ON THESE DRAFT ARTICLES, WITH A VIEW TO THE FINAL ELABORATION OF A CONVENTION ON THIS MATTER AT THE 28 TH SESSION OF THE GENERAL ASSEMBLY THIS SEPTEMBER. BY LETTER OF DECEMBER 31, 1972, THE SECRETARY- GENERAL HAS REQUESTED MEMBER STATES TO SUBMIT THEIR COMMENTS TO HIM BY JULY 1, 1973.

ALL STATES AND INTERNATIONAL INSTITUTIONS ARE THREATENED BY THESE CRIMES OF VIOLENCE WHICH ARE AIMED AT THE PROCESSES ESSENTIAL TO THE MAINTENANCE OF FRIENDLY RELATIONS BETWEEN STATES. PROMPT ADOPTION OF A CONVENTION ON THIS MATTER IS AN IMPORTANT MEASURE THAT CAN BE TAKEN AGAINST SUCH CRIMES.

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COORDINATION SHOULD BEGIN NOW AMONG NATO COUNTRIES ON THE STRATEGY REQUIRED TO ENSURE THAT THE GENERAL ASSEMBLY MAINTAINS ITS CURRENT TIME- TABLE AND COMPLETES THE WORK ON A CONVENTION IN 1973. SOME NATO COUNTRIES MAY HAVE SUBSTANTIVE DIFFICULTIES WITH SEVERAL ASPECTS OF THE ILC DRAFT ARTICLES; NOW IS ALSO THE TIME TO BEGIN A FULL EXCHANGE OF VIEWS ON ANY SUCH PROBLEMS IN ORDER TO PREPARE THE WAY FOR FINAL AGREEMENT ON A CONVENTION AT THE 28 TH SESSION OF THE GENERAL ASSEMBLY. OBVIOUSLY THE PRIMARY LOCUS FOR THE CONSULTATIONS WILL BE NEW YORK.

3. DRAFT CONVENTION ON PREVENTING THE SPREAD OF TERRORISM

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THE UNITED STATES GOVERNMENT CIRCULATED A WORKING PAPER AT THE 27 TH SESSION OF THE GENERAL ASSEMBLY (UN DOCUMENT A/ C.6/ L.850) CONTAINING A DRAFT CONVENTION TO PREVENT THE SPREAD OF VIOLENCE FROM COUNTRIES INVOLVED IN CIVIL OR INTERNATIONAL CONFLICT TO COUNTRIES OR INDIVIDUALS NOT PARTY TO SUCH CONFLICT. THIS DOCUMENT CONTAINED ONE POSSIBLE APPROACH TO LIMITING AND REGULATING CERTAIN ACTS OF INTERNATIONAL TERRORISM WHICH PRESENT THE GREATEST THREAT TO INNOCENT MEMBERS OF THE INTERNATIONAL COMMUNITY AND ON WHICH THERE MIGHT BE A CHANCE OF ACHIEVING INTERNATIONAL AGREEMENT.

THE 27 TH SESSION OF THE GENERAL ASSEMBLY ADOPTED RESOLUTION 3034 (XXVII) ON DECEMBER 18,1972, WHICH REQUESTED MEMBER STATES TO SUBMIT TO THE SECRETARY- GENERAL OBSERVATIONS ON THE SUBJECT MATTER BY APRIL 10, 1973. THE RESOLUTION ALSO ESTABLISHED AN AD HOC COMMITTEE, SCHEDULED TO MEET THIS SUMMER, TO REVIEW THE OBSERVATIONS AND TO MAKE RECOMMENDATIONS TO THE 28 TH SESSION OF THE ASSEMBLY. THE UNITED STATES CONSIDERS THE RESOLUTION DISAPPOINTING BUT WILL PARTICIPATE IN THE WORK OF THE AD HOC COMMITTEE TO SEEK THE MOST PROGRESS POSSIBLE. THE UNITED STATES GOVERNMENT WILL CIRCULATE THE OBSERVATIONS THAT IT IS SUBMITTING TO THE SECRETARY- GENERAL.

COORDINATION OF STRATEGY FOR THE AD HOC COMMITTEE

HAS ALREADY BEGUN IN NEW YORK CITY. THE NATO CONSULTATIONS WILL PROVIDE ANOTHER USEFUL FORUM TO REVIEW STRATEGY AND TO EXCHANGE VIEWS AS TO THE DESIRABLE OUTCOME OF THE AD HOC COMMITTEE'S WORK. IT IS IMPORTANT THAT THE AD HOC COMMITTEE FOCUS NOT ONLY ON THE CAUSES OF TERRORISM, BUT ALSO, AND DISTINCTLY, ON MEASURES AND ACTIONS THAT IT MIGHT RECOMMEND TO THE GENERAL ASSEMBLY. AS THE SCOPE OF POSSIBLE ACTION BY THE 28 TH ASSEMBLY IS

LIKELY TO BE DEFINED, TO A GREAT EXTENT, BY THE AD HOC COMMITTEE'S REPORT, CONTINUING COORDINATION IN NEW YORK CITY PRIOR TO AND DURING THE AD HOC COMMITTEE MEETING, AS WELL AS PRIOR TO THE ASSEMBLY SESSION, IS DESIRABLE.
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